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**Sawyer Lumber Co., L.L.C. and PACE, Paper,  
Allied-Industrial, Chemical and Energy  
Workers International Union, AFL-CIO.<sup>1</sup>**  
Case 30-CA-14487

January 15, 1999

**DECISION AND ORDER**

BY MEMBERS FOX, LIEBMAN, AND HURTGEN

Pursuant to a charge filed on October 28, 1998, the General Counsel of the National Labor Relations Board issued a complaint on November 20, 1998, alleging that the Respondent has violated Section 8(a)(5) and (1) of the National Labor Relations Act by refusing the Union's request to bargain and to furnish necessary and relevant information following the Union's certification in Case 30-RC-5981,<sup>2</sup> (Official notice is taken of the "record" in the representation proceeding as defined in the Board's Rules and Regulations, Secs. 102.68 and 102.69(g); *Frontier Hotel*, 265 NLRB 343 (1982).) The Respondent filed an answer admitting in part and denying in part the allegations in the complaint and asserting an affirmative defense.

On December 14, 1998, the General Counsel filed a Motion for Summary Judgment. On December 17, 1998, the Board issued an order transferring the proceeding to the Board and a Notice to Show Cause why the motion should not be granted. The Respondent filed a response.

The National Labor Relations Board has delegated its authority in this proceeding to a three-member panel.

**Ruling on Motion for Summary Judgment**

In its answer, the Respondent admits that it has refused to schedule meeting dates and times for negotiations and that it has refused to furnish requested information to the Union, but attacks the validity of the certification on the basis of its objections to conduct alleged to have affected the results of the election in the representation proceeding.

All representation issues raised by the Respondent were or could have been litigated in the prior representation proceeding. The Respondent does not offer to adduce at a hearing any newly discovered and previously unavailable evidence, nor does it allege any special circumstances that would require the Board to

reexamine the decision made in the representation proceeding. We therefore find that the Respondent has not raised any representation issue that is properly litigable in this unfair labor practice proceeding. See *Pittsburgh Plate Glass Co. v. NLRB*, 313 U.S. 146, 162 (1941).

We also find that there are no factual issues warranting a hearing with respect to the Union's request for information. The Respondent's answer admits that by letter dated October 20, 1998, the Union requested it to furnish it with the following information:

- (1) The names, pay rates, and current job held by each hourly employee.
- (2) Total hours worked in the preceding year by each hourly employee.
- (3) Total overtime hours paid to hourly employees in the preceding year.
- (4) A complete listing of all benefits received by hourly employees, including but not limited to health insurance, incentive plans, pensions, shift differential, accident and sickness insurance, dental insurance, life insurance, accidental death and dismemberment insurance, etc.
- (5) The names of all insurance carriers and the total cost in cents per hour for all insurance premiums and other benefits listed above.
- (6) Average age of all hourly employees.
- (7) Total number of hourly employees working swing shift.
- (8) Total number of hourly employees working day shift.
- (9) Total number of male and female hourly employees.

The Respondent's answer admits that it refused to provide this information to the Union. Further, although the Respondent's answer denies that the information requested is necessary and relevant for the Union's duties as the exclusive bargaining representative of the unit employees, it is well established that such information is presumptively relevant and must be furnished on request. See, e.g., *Masonic Hall*, 261 NLRB 436 (1982); and *Mobay Chemical Corp.*, 233 NLRB 109 (1997). The Respondent has not attempted to rebut the relevance of the information requested by the Union.

Accordingly, we grant the Motion for Summary Judgment<sup>3</sup> and will order the Respondent to recognize and bargain with the Union and to furnish it the information requested.

On the entire record, the Board makes the following

<sup>1</sup> On January 4, 1999, the United Paperworkers International Union, AFL-CIO, CLC merged with the Oil, Chemical and Atomic Workers International Union. Accordingly, the caption has been amended to reflect that change.

<sup>2</sup> 326 NLRB No. 137 (Sept. 30, 1998).

<sup>3</sup> The Respondent's request to dismiss the complaint together with the imposition of costs and attorneys' fees is denied.

## FINDINGS OF FACT

## I. JURISDICTION

During the calendar year that ended December 31, 1998, the Respondent, in conducting its operations, sold and shipped goods valued in excess of \$50,000 directly from its Gwinn, Michigan facility to points located outside the State of Michigan. We find that the Respondent is an employer engaged in commerce within the meaning of Section 2(2), (6), and (7) of the Act and that the Union is a labor organization within the meaning of Section 2(5) of the Act.

## II. ALLEGED UNFAIR LABOR PRACTICES

A. *The Certification*

Following the election held March 19, 1998, the Union was certified on September 30, 1998, as the exclusive collective-bargaining representative of the employees in the following appropriate unit:

All full-time and regular part-time production and maintenance employees employed by the Employer at its [Gwinn], Michigan, facility; but excluding office employees, clerical employees, forestry staff and scalers, quality control staff, professional employees, guards and supervisors, as defined in the Act.

The Union continues to be the exclusive representative under Section 9(a) of the Act.

B. *Refusal to Bargain*

By letter dated October 20, 1998, the Union requested the Respondent to meet and bargain and to furnish information, and, since October 23, 1998, the Respondent has failed and refused. We find that this failure and refusal constitutes an unlawful failure and refusal to bargain in violation of Section 8(a)(5) and (1) of the Act.

## CONCLUSION OF LAW

By failing and refusing on and after October 23, 1998, to meet and bargain with the Union as the exclusive collective-bargaining representative of employees in the appropriate unit and to furnish the Union requested information, the Respondent has engaged in unfair labor practices affecting commerce within the meaning of Section 8(a)(5) and (1) and Section 2(6) and (7) of the Act.

## REMEDY

Having found that the Respondent has violated Section 8(a)(5) and (1) of the Act, we shall order it to cease and desist, to meet and bargain on request with the Union, and, if an understanding is reached, to embody the understanding in a signed agreement. We also shall order the Respondent to furnish the Union the information requested.

To ensure that the employees are accorded the services of their selected bargaining agent for the period provided by the law, we shall construe the initial period of the certification as beginning the date the Respondent begins to bargain in good faith with the Union. *Mar-Jac Poultry Co.*, 136 NLRB 785 (1962); *Lamar Hotel*, 140 NLRB 226, 229 (1962), enf'd. 328 F.2d 600 (5th Cir. 1964), cert. denied 379 U.S. 817 (1964); *Burnett Construction Co.*, 149 NLRB 1419, 1421 (1964), enf'd. 350 F.2d 57 (10th Cir. 1965).

## ORDER

The National Labor Relations Board orders that the Respondent, Sawyer Lumber Co., L.L.C., Gwinn, Michigan, its officers, agents, successors, and assigns, shall

## 1. Cease and desist from

(a) Refusing to meet and bargain with PACE, Paper, Allied-Industrial, Chemical and Energy Workers International Union, AFL-CIO as the exclusive bargaining representative of the employees in the bargaining unit, and refusing to furnish the Union information that is relevant and necessary to its role as the exclusive bargaining representative of the unit employees.

(b) In any like or related manner interfering with, restraining, or coercing employees in the exercise of the rights guaranteed them by Section 7 of the Act.

2. Take the following affirmative action necessary to effectuate the policies of the Act.

(a) On request, meet and bargain with the Union as the exclusive representative of the employees in the following appropriate unit on terms and conditions of employment, and, if an understanding is reached, embody the understanding in a signed agreement:

All full-time and regular part-time production and maintenance employees employed by the Employer at its [Gwinn], Michigan, facility; but excluding office employees, clerical employees, forestry staff and scalers, quality control staff, professional employees, guards and supervisors, as defined in the Act.

(b) Furnish the Union the information that it requested on October 20, 1998.

(c) Within 14 days after service by the Region, post at its facility in Gwinn, Michigan, copies of the attached notice marked "Appendix."<sup>4</sup> Copies of the notice, on forms provided by the Regional Director for Region 30 after being signed by the Respondent's

<sup>4</sup> If this Order is enforced by a judgment of a United States court of appeals, the words in the notice reading "Posted by Order of the National Labor Relations Board" shall read "Posted Pursuant to a Judgment of the United States Court of Appeals Enforcing an Order of the National Labor Relations Board."

authorized representative, shall be posted by the Respondent and maintained for 60 consecutive days in conspicuous places including all places where notices to employees are customarily posted. Reasonable steps shall be taken by the Respondent to ensure that the notices are not altered, defaced, or covered by any other material. In the event that, during the pendency of these proceedings, the Respondent has gone out of business or closed the facility involved in these proceedings, the Respondent shall duplicate and mail, at its own expense, a copy of the notice to all current employees and former employees employed by the Respondent at any time since October 23, 1998.

(c) Within 21 days after service by the Region, file with the Regional Director a sworn certification of a responsible official on a form provided by the Region attesting to the steps that the Respondent has taken to comply.

Dated, Washington, D.C. January 15, 1999

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Sarah M. Fox,	Member
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Wilma B. Liebman,	Member
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Peter J. Hurtgen,	Member
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(SEAL) NATIONAL LABOR RELATIONS BOARD

APPENDIX  
NOTICE TO EMPLOYEES  
POSTED BY ORDER OF THE  
NATIONAL LABOR RELATIONS BOARD  
An Agency of the United States Government

The National Labor Relations Board has found that we violated the National Labor Relations Act and has ordered us to post and abide by this notice.

WE WILL NOT refuse to bargain with PACE, Paper, Allied-Industrial, Chemical and Energy Workers International Union, AFL-CIO as the exclusive representative of the employees in the bargaining unit, and WE WILL NOT refuse to furnish the Union information that is relevant and necessary to its role as the exclusive bargaining representative of the unit employees.

WE WILL NOT in any like or related manner interfere with, restrain, or coerce you in the exercise of the rights guaranteed you by Section 7 of the Act.

WE WILL, on request, meet and bargain with the Union and put in writing and sign any agreement

reached on terms and conditions of employment for our employees in the bargaining unit:

All full-time and regular part-time production and maintenance employees employed by us at our [Gwinn], Michigan, facility; but excluding office employees, clerical employees, forestry staff and scalers, quality control staff, professional employees, guards and supervisors, as defined in the Act.

WE WILL furnish the Union the information it requested on October 20, 1998.

SAWYER LUMBER CO., L.L.C.